

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE COLUMBIA UNIVERSITY
PATENT LITIGATION

MDL No. 1592 (MLW)

This Document Relates To All Actions

DECLARATION OF JASON G. SHEASBY

I, Jason G. Sheasby, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for The Trustees of Columbia University in the City of New York ("Columbia"). I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. After counsel for Columbia, Cooper & Dunham LLP, became aware that a third party had improperly obtained a copy of the '159 application prosecution history as it existed in November 2002, Cooper & Dunham LLP contacted the PTO, and requested that the PTO maintain the confidentiality of the '159 application. The PTO stated that it agreed to this request.

3. Attached as Exhibit 1 is a true and correct copy of letter date June 12, 2004 from myself to all plaintiffs counsel, except for counsel for Amgen, Inc. and Immunex Corp.

4. A conference call regarding the issue of mootness raised in the Court's June 11, 2004 Order occurred on June 14, 2004. I participated in that conference call on behalf of Columbia. Outside counsel for Biogen, Inc. ("Biogen"), Genzyme Corp. ("Genzyme"), Johnson & Johnson, Genentech, Inc. ("Genentech"), Amgen, Inc., and its wholly owned subsidiary Immunex Corp. ("Amgen/Immunex") also participated. Counsel for Wyeth, and its wholly owned subsidiary Genetics Institute LLC ("Wyeth/GI"), and counsel for Abbott Bioresearch Center, Inc. ("Abbott"), did not participate.

5. During the call, outside counsel for Biogen and Genzyme (Foley Hoag LLP) reported that they sent portions of the '159 application prosecution history to outside counsel for other parties to this consolidated proceeding and that they continue to investigate the full scope of those disclosures of these documents. Foley Hoag stated that they obtained the portions of the '159 application prosecution history in their possession "from the PTO." Counsel refused to explain how they obtained the documents in their possession. Counsel also refused to reveal what portions of the '159 application's prosecution history were in their possession. Foley Hoag only revealed the portions of the prosecution history that are in the possession of Biogen and Genzyme employees.

6. Also during the call, outside counsel for Johnson & Johnson (Patterson, Belknap, Webb & Tyler LLP) represented that in-house counsel have access only to the portion of the prosecution history attached to the Biogen and Genzyme reply to their preliminary injunction motion. Patterson Belknap refused to disclose what portions of the prosecution history were in their own possession.

7. Also during the call, outside counsel for Genentech (Quinn Emanuel Urquhart Oliver & Hedges LLP) reported that only Genentech's outside counsel have access to the portion of the October 28, 2003 Amendment that Biogen and Genzyme attached to the reply in support of their preliminary injunction motion.

8. Attached as Exhibit 2 is a true and correct copy of a letter dated June 2, 2004 from Leora Ben-Ami (Wyeth's counsel) to me.

9. Attached as Exhibit 3 is a true and correct copy of a letter dated June 2, 2004 from Mark A. Pals (Abbott's counsel) to me.

10. Attached as Exhibit 4 is a true and correct copy of a letter dated June 14, 2004 from Claire Laporte (counsel for Biogen, Genzyme and Baxter) to David Gindler.

11. Attached as Exhibit 5 is a true and correct copy of a letter dated June 14, 2004 from Melissa Mandrgoc (Johnson & Johnson's counsel) to me.

12. Attached as Exhibit 6 is a true and correct copy of a letter dated June 14, 2004 from Arthur Wineberg (Amgen/Immunex's counsel) to DoHoang Tini Duong (co-counsel for Columbia).

Executed on June 14, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Jason G. Sheasby
Jason G. Sheasby